

United States Court of Federal Claims

No. 98-419 L
March 28, 2014

**RESOURCE INVESTMENTS, INC.
and LAND RECOVERY, INC.,**

Plaintiffs,

v.

Fifth Amendment Takings;
28 U.S.C. § 1500; RCFC
12(b)(1), Subject Matter
Jurisdiction

THE UNITED STATES OF AMERICA,

Defendant.

Daniel D. Syrdal, Orrick, Herrington & Sutcliffe, LLP, Seattle, WA, for plaintiffs.

Frank J. Singer, Environment & Natural Resources Division, Natural Resources Section,
United States Department of Justice, Washington, DC, for defendant.

OPINION and ORDER

Block, Judge.

On February 5, 2014, the court issued an opinion granting defendant's motion to dismiss for lack of subject matter jurisdiction, pursuant to Rule 12(b)(1) of the Rules of the Court of Federal Claims ("RCFC") and 28 U.S.C. § 1500. *See Res. Investments, Inc. v. United States*, 114 Fed. Cl. 639 (2014). However, the court has not yet determined the amount of attorneys fees and costs that plaintiffs are entitled to, pursuant to the court's order on April 3, 2006, ECF No. 162.

On April 3, 2006, the court granted plaintiffs' motions to strike the declarations of Bruce Allen and Mark Wolken, which defendant had submitted nearly five years after close of discovery. *See Order*, ECF No. 162 (granting Pl.'s Mot. Strike, ECF No. 149, 151). In that same order, the court awarded plaintiffs costs for bringing the two motions to strike. *Id.* Accordingly, on April 17, 2006, plaintiffs filed a cost statement requesting \$30,531.00 in legal fees. On May 5, 2006, defendant filed a response contesting not only plaintiffs' cost statement, but also requesting the court to reconsider the April 3 award pursuant RCFC 59(a). The court finds defendant's motion for reconsideration untimely under RCFC 59(b), and is not persuaded by defendant's repeated effort to minimize the significance of the two declarations and abuse of the discovery process, which the court already addressed in the recorded telephone status conference held on March 31, 2006.

For the foregoing reasons, plaintiffs' MOTION for costs is hereby GRANTED. Accordingly, plaintiffs are awarded costs of \$30,531.00. **IT IS SO ORDERED.**

s/ Lawrence J. Block

Lawrence J. Block
Judge